

Court No. - 10

Case :- CRIMINAL MISC. WRIT PETITION No. - 9501 of 2023

Petitioner :- Sanjay Pratap Singh

Respondent :- State Of U.P. Thru. Prin. Secy. Home Lko. And Others

Counsel for Petitioner :- Satendra Kumar Singh, Paresh Kumar Singh

Counsel for Respondent :- G.A.

Hon'ble Mrs. Sangeeta Chandra, J.

Hon'ble Narendra Kumar Johari, J.

Heard learned counsel for the petitioner, learned AGA who appears on behalf of State-respondents and perused the record.

This petition has been filed praying the following main reliefs:-

i) Issue a writ order or direction in the nature of Mandamus directing the opposite party to ensure fair impartial and proper investigation of the case crime No. - 0337/2023, under sections 419, 420, 467, 468, 471, 506, 427, 4/10 Tree Protection Act, 1976 I.P.C. at Police Station - Sidhauri, District - Sitapur, and arrest opposite party no. 6 and others for committing fraudulent activities of theft of the valuables of the Ram Ji Maharaj Temple and also cutting of more than 300 valuable trees and sold to land and trees to the private persons by opposite party no .6 and others, as contained in Annexure No.1 and 2 to this writ petition.

(ii) Issue a writ order or direction in the nature of MANDAMUS directing the opposite party no. 2 to initiate criminal action against opposite party no. 6 and others. under section 4, 10 Tree Protection Act, 1976,

(iii) Issue any other writ other order or direction to opposite party no. 1 to provide protection for petitioner and their family members including mother who is suffering from acute cancer and is under treatment by specialized oncologist.

iv. Issue any other writ, order or direction in the nature of mandamus directing the opposite party no. 1 and 2 to decide the representation dated 18.09.2023.

It has been submitted by the learned counsel for the petitioner

that although the F.I.R. was lodged by the petitioner on 11.7.2023 but the Investigating Officer is conducting a fair investigation and he is in collusion with the opposite parties.

We have perused the averments made in the writ petition and are not convinced that any direction, as has been prayed for by the petitioner in this writ petition, can be granted in these proceedings. The Supreme Court in the case of ***Sudhir Bhaskarrao Tambe vs. Hemant Yashwant Dhage and others, reported in (2016) 6 SCC 277*** relying upon an earlier judgment of the Supreme Court in the case of ***Sakiri Vasu vs. State of U.P. and others, reported in (2008) 2 SCC 469*** has held that this Court normally should not entertain such petitions for the reason that complainant in such situations is at liberty to avail the alternative remedy by approaching the Magistrate concerned under Section 156(3) Cr.P.C.

Accordingly, we are not inclined to entertain this writ petition, which is hereby **disposed of** with the observation that it will be open to the petitioner to approach the Magistrate concerned by moving an application under Section 156(3) Cr.P.C. If any such application is moved by the petitioner/complainant, the same shall be dealt in accordance with law by the Magistrate concerned.

Order Date :- 15.12.2023

Anuj Singh